



United States Environmental Protection Agency  
Region II

Form Revised April 1993

Case No.

02-96-0191

Date Entered

8/30/96

CERCLA Enforcement Case Data

CASE NAME UNITED MERCHANT & MANUFACTURERS INC

(Local or principal defendant, not site or facility name)

STATE

NJ

ORC BRANCH

NJSEP

ORC SECTION

\_\_\_\_\_

TYPE CASE

☐ CIV = Civil

☐ ACC = Access Order

☐ PRN

☐ COL = Collection Action

☒ BNK = Bankruptcy

☐ CIC = Civil Judgment/Decree  
Enforcement

LAWS/SECTIONS: DO NOT use USC or CFR designations.

1. CERCLA / ☐ 103(a)  
☐ 103(d)(2)

☐ 104(e)(2): Information

☐ 106(a)

☐ 108

☐ 122(e)(3)(B)

☐ 104(e)(3): Access

☐ 106(b)

☐ 109

☐ 122(h)(3)

☐ 104(e)(4): Inspection/Sampling

☒ 107(a)

☐ 122(i)

☐ 107(c)(3)

2. \_\_\_\_\_ / \_\_\_\_\_

3. \_\_\_\_\_ / \_\_\_\_\_

4. \_\_\_\_\_ / \_\_\_\_\_

REGIONAL TECHNICAL CONTACT: (Last Name) COSENTINO (1st Init.) J

Phone: 908-906-6883  
~~212-637-3150~~

REGIONAL ATTORNEY: (Last Name) Seidenberg (1st Init.) M.

Phone: 212-637-3150

PRPs (All must be listed. Attach list, if necessary.)

1. General Motors

2. E.I. DuPont

3. Pittsburgh Plate & Glass (PPG)

4. BASF

5. UNITED MERCHANTS MANUF INC / VICTORIA CREATIONS, INC

6. \_\_\_\_\_

7. \_\_\_\_\_

8. \_\_\_\_\_

Environmental Justice? ☐ Yes ☒ No If Yes: ☐  $\geq$  25% Minority Population ☐  $\geq$  25% Low Income ☐ Both ☐ Other

Is the site on the NATIONAL PRIORITY LIST (NPL)? ☐ Yes ☒ No

REFERRAL WITH CONSENT DECREE? (CIV Type Case Only) ☐ Yes ☒ No

Is this action to ENFORCE an ADMINISTRATIVE ORDER? ☐ Yes ☒ No

RELIEF SOUGHT IN REFERRAL (Check as many boxes as apply.)

☐ IRMV (Injunctive Removal)

☒ CRMV (Cost Recovery Removal)

☐ IRFS (Injunctive RI/FS)

☐ CRFS (Cost Recovery RI/FS)

☐ IRD (Injunctive Remedial Design)

☐ CRD (Cost Recovery Remedial Design)

☐ IRA (Injunctive Remedial Action)

☐ CRA (Cost Recovery Remedial Action)

☐ PEN (Penalty)

☒ COTH (Other Cost Recovery, e.g., bankruptcy for future costs))

☐ COL (Collection)

REFERRAL INDICATOR (Not Applicable at PRN Stage)

☒ RD: Region to DOJ (direct referral)

☐ RH: Region to HQ

☐ RU: Region to US Attorney

240878



DATE OPENED / REGIONAL ATTORNEY ASSIGNED

/ /

DATE PRN SENT

/ /

DATE OF REFERRAL

/ /

MULTIMEDIA CASE

☐ Yes

☐ No

SITE OR FACILITY DATA (Please use the address of the site of violation. DO NOT use the mailing address, defendant's address, or a P.O. Box number.)

Facility Name: BAYONNE BARREL AND DRUM

Street Address: ~~1500 ST~~ RAYMOND BLVD - etc

City: NEWARK State: NJ Zip Code: 07105

Put-in finds FINDS ID NO.: NJD 009871401

\*\* If there is more than 1 site of violation, please complete the FACILITY DATA FORM for each of the additional addresses and attach to this form.

CASE SUMMARY (Attach additional pages if necessary.)

Site occupies appx 15 acres of  
Block 5002, Lots 3 & 4, bounded by  
RAYMOND BLVD & an exit ramp from Routes  
1 AND 9 to the North AND West, an Entrance  
Ramp from the NJ turnp to the  
East AND South, & the parking lot of  
a movie theater to the Southwest,

if NO

ENFORCEMENT CONFIDENTIAL  
ATTORNEY/CLIENT PRIVILEGE  
ATTORNEY WORK PRODUCT

August 9, 1996

Via Express Mail

Joel Gross, Esq.  
Section Chief  
Environmental Enforcement Section  
Environment and Natural Resources Division  
United States Department of Justice  
1425 New York Avenue  
Washington, D.C. 20005

Re: Bayonne Barrel and Drum  
Bankruptcy Proof of Claim

Dear Mr. Gross:

The purpose of this letter is to confirm an oral referral made by the United States Environmental Protection Agency ("EPA") requesting that the Department of Justice ("DOJ") file a proof of claim ("Proof of Claim") in the United Merchants and Manufacturers, Inc. ("UMM") bankruptcy ("Bankruptcy"). As was discussed, and as is set forth below, EPA believes that the United States has a claim in the Bankruptcy because UMM arranged for the disposal of hazardous substances at the Bayonne Barrel and Drum Site ("Site"). By virtue of this arrangement for disposal, UMM fits within the definition of "generator" as set forth in section 107(a)(3) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"). 42 U.S.C. § 9607(a)(3). The bar date for filing the Proof of Claim is August 19, 1996.

Site Background

The Site is located at 150-154 Raymond Boulevard in Newark, Essex County, New Jersey, and occupies approximately 15 acres of Block 5002, Lots 3 and 14. The Site is bounded by Raymond Boulevard and an exit ramp from Routes 1 and 9 to the north and west, an entrance ramp to the New Jersey Turnpike to the east and south, and the parking lot of a movie theater to the southwest. The nearest residential area is approximately one-half mile away.

The Site operated as a barrel refurbishing facility from the early 1940's until the early 1980's when the operating entity, Bayonne Barrel & Drum Company ("BB&D"), filed for bankruptcy under Chapter 11. Operations involved the cleaning and reconditioning of metal drums using caustic solutions and incineration. These operations resulted in considerable contamination at the Site, as described more fully below.

During the 1980's and early 1990's EPA's Resource Conservation and Recovery Act Division had responsibility for the Site. The New Jersey Department of Environmental Protection ("NJDEP") was also involved with the Site. EPA site inspections in 1984, 1988 and 1991 confirmed the presence of numerous CERCLA hazardous substances at the Site, including, polychlorinated biphenyls ("PCBs"), toluene, trichloroethylene, vinyl chloride, chromium, lead, zinc, benzene and xylene.

On September 30, 1991, EPA's Removal Action Branch received a request from NJDEP to evaluate the Site for CERCLA removal action consideration. A Removal Site Evaluation ("RSE") was completed in January, 1992. The RSE concluded that CERCLA hazardous substances had been released into the environment at the Site. In conjunction with the RSE, an Agency for Toxic Substances and Disease Registry Health Consultation was requested. The consultation concluded that conditions at the Site posed a potential public health threat.

In June and July of 1992, box trailers holding drums containing hazardous substances were abandoned at the Site. EPA conducted removal activities in March, 1993 to mitigate the threats presented by the hazardous substances contained in the abandoned trailers.

Following a fire at the Site on July 8, 1994, EPA commenced additional removal activities. Inspections at the Site revealed ash piles, shredded tires, contaminated vertical and underground storage tanks, contamination within buildings and the presence of thousands of metal drums, some containing hazardous substances. Many of the drums containing material were open, severely deteriorated and/or improperly stored.

Removal activities conducted to date include:

1. Securing the Site by repairing the perimeter fence and installing warning signs;
2. Removing approximately 46,000 drums, some containing hazardous substances;
3. Testing, segregating and overpacking of CERCLA hazardous substances;
4. Removing two ash piles contaminated with dioxin and lead; and

5. Removing tanks containing contaminated sludge.

To undertake these and other removal activities, EPA has incurred response costs of approximately \$2,000,000.

Recent sampling of Site soils has confirmed the presence of numerous organic and inorganic hazardous substances, including ethyl benzene, xylene, PCBs, cadmium, chromium and lead. In addition, EPA believes dioxin to be present at the Site in levels up to approximately 20 parts per billion. Additional activities are required at the Site to, among other matters, systematically sample soils in order to fully determine the extent of soil contamination ("Soil Study"). Thereafter, a soil cleanup will likely be necessary.

CERCLA Enforcement Activities

EPA's CERCLA enforcement activities to date have focused upon PRP identification and a recent attempt to have the eight named PRPs consensually agree to undertake the Soil Study. PRP identification efforts have focused on three principal types of evidence:

1) Barrels found at the Site - analysis of samples taken from materials found within the barrels confirms that these materials are CERCLA hazardous substances.

2) Barrel labels and manifests - many of the barrels with hazardous substances had labels identifying the generating company. EPA has collected hazardous waste manifests corresponding to these labels from various state departments in order to further identify PRPs.

3) Site Records - extensive paper records of parties doing various types of business with BB&D were found at the Site. Most of the records do not specify the type of business activity, and do not, standing alone, form the basis for a determination that a given party is a PRP. From the names on these business records, EPA sent out 334 section 104(e) requests. Approximately 250 responses have been received, but not yet reviewed.

As noted, in addition to undertaking PRP development, EPA is currently negotiating with seven of the eight identified PRPs to gain their agreement to conduct the Soil Study.

The United Merchants Bankruptcy Notice

EPA has recently received a Notice of Last Date for Filing of Proofs of Claim concerning the United Merchants and Manufacturers, Inc. Bankruptcy. Attachment A. The Bankruptcy is filed under Chapter 11 of the United States Bankruptcy Code and is pending in the Southern District of New York. As noted above, the bar date for filing the Proof of Claim is August 19, 1996.

UM&M is identified in the following manner on labels affixed to approximately 28 barrels found at the Site: "Decora Division of UM&M". EPA has confirmed the presence of hazardous substances in at least one of these barrels. EPA has also obtained several State of New York Department of Environmental Conservation Hazardous Waste Manifests corresponding to the manifest numbers found on the barrel labels. Based upon this evidence, EPA has determined that UM&M is a PRP; however, EPA has not yet sent a "notice" letter to UM&M.

EPA has twice sent UM&M section 104(e) information requests. Evidently, upon receipt of EPA's 104(e) letter, UM&M added EPA to the bankruptcy list of creditors or other parties in interest.

#### Value of the Claim

EPA estimates its claim at \$9,000,000, derived from the following components. Approximately \$2,000,000 has previously been spent by EPA to conduct removal activities at the Site, including those identified above. EPA estimates that the Soil Study will cost approximately \$1,000,000 and the soil cleanup approximately \$6,000,000. Accordingly, while the last two numbers are only estimates based on analysis of known site conditions and expected cleanup alternatives, EPA's total proposed claim of \$9,000,000 is a well-founded approximation of probable Site costs.

#### Conclusion

Based upon the foregoing, EPA requests that DOJ file a Proof of Claim in the Bankruptcy in the amount of \$9,000,000 prior to the bar date of August 19, 1996.

Sincerely,

Walter E. Mugdan  
Regional Counsel

cc: Ed Smith, Esq.  
Henry Friedman, Esq.  
Joe Cosentino